[Mr. Parambi Lonappen]

the proper authority for you to go to and ask for advice is the High Court. You failed to do that. Now you say that this House is properly constituted because these two gentlemen have not entailed any disqualification from corrupt practice. The section clearly says, Sir, that if any person is convicted of any offence under Chapter VIII A of the Cochin Penal Code or Chapter IX of the Indian Penal Code by the Commissioners appointed under any rules in force regarding elections in the Legislative Council constituted under the Act reported to be a corrupt practice specified in Part I, his name if on the electoral rolls shall be removed there from and shall not be registered. What did the Government do in pursuance of this strict injunction in the Act? But what the Gazette Extra-ordinary stated was that his name shall not be removed. Is that the way to abide by the decisions of a legally constituted Tribunal which you yourself appointed? Since the promulgation of the Constitution Act though several tribunals have been appointed to enquire into election petitions not one of such decisions has been objected to by the Government. I am sure my friend Mr. Madhava Prabhu who was the President of one of such Election Courts knows about it. I too was one such President. Why this objection in this case alone? Why not law take its own course whether the person involved is a Minister or not? Well Sir, if you go out of your way against the declared rules of Government where is the safety of the individual. We don't want matters to be dictated to by parties in power or position. I submit that this House is not properly constituted as two persons who have ipso facto ceased to be members of this Council are taking part in the proceedings of this Council. Again under Section 2 of the Government of Cochin Act the two persons have been appointed Ministers. The dignified position of elected members, at least of one of them, has been lost, and yet Government take shelter under the Act and say that he can sit there and take part in the proceedings in the Council as a Minister! Disgraceful! If he has decorum he ought to have left. He is, according to Section 62, initially appointed by His Highness. He cannot take shelter under the Act and continue as Minister because there is some round about provision in the Act by which a non-elected member can be a Minister and yet from another aspect Sir, is it not the electorate of this State to decide this. With all the paraphernalia of his office and authority is it fair to impose upon the electorates of Nellayi where he could go with the authority of a Minister and ask for their votes? Are you giving a fair, unfettered election free unfettered election? It is the right of the Government to give us a free and unfettered election and a good election fight?

(A voice—are the voters afraid of the Minister)

I have made my position clear that the point of order raised by me is perfectly correct. I submit that the three persons mentioned already are not properly members of this House. At least two of them cannot continue as Ministers.

Mr. M. Sivarama Menon *(Constitutional Adviser):* In fairness to the Hon'ble Members of the other side I think it shall be doing harm if we answer this question as it is based, on incorrect information. In reply to the question whether any information was conveyed to the President, in fact, I may tell him that there was a letter addressed to the President included as one of the appendices sent by his own clerk.

Diwan President: I have heard the arguments on both sides and I have come to the conclusion that according to the rules as they stand at present the two members referred to in the point of order can continue to be members of this House.

3. (ii) RAISING OF A POINT OF ORDER

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Sir, I rise to another point of order. Before we proceed to count the votes the five Hon'ble Members of this House trusted servants of the Government of Cochin in the person of the Chief Secretary to Government, the Advocate General, the Constitutional Adviser to the Government of Cochin, the Finance member to the Government of Cochin and the Secretary to Government should be allowed to vote in this election. These trusted servants of the Government have been denied their fundamental right to decide as to who should be the person to sit in that chair which is the second highest in the State being next only to the Throne. I hope I am right Sir. When I say this. I am making an assertion that it is not a free voluntary decision.

That it is decision of theirs that these 5 Government members, Hon'ble Members of this House have not taken part in this greatest achievement of the Government of Cochin on the prompting, on the urgings, on the demands made on them by this House that they be given the right to elect their own President in contradistinction to having a Diwan President, who after all

LIBRARY ARCHIVES Kerala Legislative Assembly

is a paid servant of His Highness the Maharaja of Cochin, with all that that expression means. That right having been so readily granted, immediately granted, within a few hours and not days, Sir, of your being called upon to be His Highness' chief adviser, we are all glad, we congratulate you Sir, for that as also the Government inclusive of 'My Government'. But, Sir, the right to contribute their share in the implementation of this decision has been denied to these trusted servants of the Government and my point of order is on that refusal of that right to these trusted servants of the Government of Cochin, Hon'ble Members of this House, honoured citizens of the State, loving and loyal subjects of His Highness the Maharaja of Cochin. This refusal of the exercise of this fundamental right of theirs as to who should be their first elected President,—President, Sir, the custodian of the rights and privileges of the House, the one whose duty it is, Sir, to lay down conventions, to respect conventions, when they are once laid down and to preserve the rights and privileges of the House. Now, Sir, that is the position of the President at whose election we are at. And more than all these, the President of a Legislature —I amquoting the language of an eminent constitutional lawyer—the President of any Legislature is a Vinculam between the Government and the people.

Mr. P. Govinda Menon *(Minister for Food and Education):* What is the meaning?

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I am here not as an English teacher, instructing an innocent, seemingly and occasionally stupid, foolish school boy, but as a member representing the Public of Cochin in a certain area, though the interrupter happens to be 'My Government'.. I submit Sir, the President of the Legislature is more than being the custodian of the rights and privileges of the House, more than being the person who has to lay down healthy conventions and when once they are laid down to respect them, respect them, respect them. In taking the decision that Government members be neutral these five trusted servants of the Government have been denied that privilege.

Mr. P. K. Dewer *(Nominated):* Who said?

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I say so, or let it be contradicted. I know every one of these six Hon'ble Members is anxious to.....

Mr. P. Govinda Menon *(Minister for Food and Education):* Who these six?

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* If Mr. Warne is not an official member, then, Five please. I realise, Sir, that one of them has already got his ballot paper and has recorded his vote and I think rightly too. I am on a very important subject Sir, that the five citizens of the Cochin State, five trusted servants of the Government of Cochin have been denied the right, because I know Sir, because.....

Mr. P. K. Dewer *(Nominated):* Did they say so to you?

Mr. President: If any one wants to speak on the point of order, I shall give him a chance. Let him not interrupt.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* It is a direction, may not be in writing, might have taken another form, under a direction that it is a desirable thing that they abstain from voting, a direction to them which they as trusted servants of the Government have to obey, but they as prominent citizens of the Cochin State, loyal subjects of His Highness the Maharaja, Hon'ble Members of this House interested and unfitted to take part in voting for electing their President will be protesting against in their heart of hearts that this precious right of theirs to chose their first elected President has been denied to them. Sir, it is on this denial that I have raised the point of order. This decision of the Government has broken a long established convention. I am on the most important part of the point of order which may kindly be taken note of Sir, breaking the convention of the House, established as early as 1106, when we were given the right to elect our first Deputy President, continued in 1110, preceded by a by-election on the sad demise of our first Deputy President, that great soul which now rests in peace, the late Dr. A. G. Menon—we are proud of him—followed by a by-election in the person of an esteemed member of the House, the late Mr. K. T. Mathew, fresh election in 1110, of a very eminent retired servant of the Government of Cochin—who I understand is one of the experts who have given the Government the expert opinion in another—matter followed in 1113, when this House was presided over by a distinguished son of India, one who had adorned the Chair of the Central Assembly at De hi conspecuously and eminently for some years,—I am referring to the Present-President of the Trade Commission sitting at Bombay, Sir R. K. Shanmukham Chetty—in those days Sir, in the election of the Deputy President Mr. T. P. Poulose, who unfortunately is not amongst us now and under a very funny

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. P. Kumaran Ezhuthassan]
episode before the end of the period of the Council and in the bye-election when my esteemed friend who is smiling there—I am referring to M. R. Ry. Rao Sahib K. Ayyappan, and lastly in the year 1120, Mithunam 15, in the election of a friend of mine.....

Rao Sahib K. Ayyappan *(Minister for Public Works):* What was the date of my election?

Mr. P. Kumaran Ezhuhassan *(Vadakkancheri):* If you are interrupting put it loudly so that I may hear you and give you your dessert. I am referring to my esteemed friend Mr. L. M. Pylee. In the case of his election as Deputy President also there has been a convention laid down—Don't shake your head please—it will ache if you shake often—inclusive of that, Sir, we have a convention that the Government Members, the official members are allowed to exercise their franchise. They have exercised it, these volumes which refer to elections and voting results would show these Government members had taken part, excepting in one case, under the exercise of a free voting but in one solitary case and unhappy episode, under that lash of a whip under which they must have quivered but tried to question it, but helpless they were. Therefore, Sir, out of six instances of election of Deputy President in all the six right of voting was given, in five out of six right of free voting was granted, that is the precedent of this House, Sir, and it is one of the fundamental duties of a House which the House cherishes, which the House ought to cherish, which the House ought to fight against if it is sought to be violated. If that convention be respected and it is in violation of such long standing conventions running from 1106, down to Mithunam 15, 1120, the violation of a convention long-standing is a point on which as an experienced member of this House, as one who had been fighting for the establishment of conventions and after the establishment of conventions to respect them, Sir, I have to register my protest by raising this point of order on which I solicit your learned ruling, for which I pray, Sir, if not for any other reason at least for the reason of respecting the convention of this House which is one of the fundamental duties of the House presided over by a President whether he be a Government Servant or an elected President, if not for anything else, this point of order, Sir, be ruled in my favour followed by ballot papers being put into the hands of these five loyal eminent subjects of the State, these trusted servants of the Government who have no option but to obey the direction written or otherwise to abstain from voting. That mischief, that wrong committed may be corrected either by passing on their ballot papers into their hands or bringing in that open closure through which anything could be seen because I watched it, one gentleman on the other side an esteemed friend of mine who was very seriously looking whether I was voting for me or for Mr. Pylee. But between us we have come to an agreement I would vote for him and he would vote for me. I have done my part under that reciprocal arrangement and I do not know what he has done. Therefore my point is that ballot papers should be given to them, these Government members they be allowed to exercise the franchise either my friend Mr. Pylee or poor myself be given the benefit of all the votes one way, or division of votes, either proportionately or disproportionately, that is the point of order, I solicit your ruling, Sir, on this vital question.

Mr. M. K. Raja *(Mulakunnathukavu):* May I know the allegation of the Hon'ble Member whether the Government members are denied the right to vote is correct?

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* It is not an allegation, it is an assertion.

Mr. President: That implies that these Government members are anxious to exercise their votes. There is no proof of any such anxiety. They have not shown their anxiety at all.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* May I know, Sir, whether my assertion that the five Government servants have been asked to remain neutral is correct or is it that they are remaining neutral of their own will. I rise on that point of information. It is quite warranted. We must know where we stand.

Mr. Parambi Lonappen *(Irinjalakkuda):* We do not wish to take part in the deliberations and therefore we walk out of the Council. The following Hon'ble Members walked out of the Council.

Messrs. Parambi Lonappen,
K. Balakrishna Menon,

LIBRARY ARCHIVES Kerala Legislative Assembly

Messrs. A. Eachara Menon,
T. K. L. Kunjuvareed,
P. V. Sebastian,
K. A. Raghavan,
P. A. Mohammed Ashrof and
Mrs. T. Francis.

Diwan President: The Government thought that the official members should be neutral on this occasion because whatever may be convention, this occasion is unique, we are getting a non-official President and Government thought it more desirable to leave the non-official President's election entirely to the elected members. Another point. There was also the intention to save them from a possible allegation that they voted this side or that. These were the motives that actuated the Government to instruct the officials to remain neutral. I can see nothing illegal or wrong about it, and I cannot agree with Mr. P. Kumaran Ezhuthassan in his point of order.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)* : Upon the breaking of a longstanding convention in this behalf I propose to register my symbolic protest by walking out of this House for five minutes, (Laughter) and only five minutes.

The votes were then counted

Diwan President.—Out of 42, one is invalid, of the remaining 41 Mr. P. Kumaran Ezhuthassan gets 14 and Mr. L. M. Pylee gets 27. Mr. L. M. Pylee is declared elected as the President. Please come here and take the Chair.

The Hon'ble President M. R. Ry. L. M. Pylee Avl., M. A., B. L., took the Chair.

4. CONGRATULATORY SPEECHES

The Diwan: Mr. President and Hon'ble Members,

It has indeed been a great pleasure to me to have had the privilege of conducting the election of the first non-official President to this House. The election is in pursuance of His Highness' gracious acceptance of your desire. Your desire to elect your President is very legitimate, and I venture to say, has been realised none too soon. On this occasion, and on behalf of us all, permit me to express our grateful thanks to His Highness for conferring this very valued privilege on this House, without the delay involved in waiting for the recommendations of the Constitutional Advisory Committee which is now sitting to consider further constitutional changes.

This occasion is unique. It opens a new chapter in the history of this House. The responsibilities of this House are already great. They have become greater when at no distant date further constitutional changes will be introduced. The responsibilities of the Hon'ble President of the House will correspondingly increase too. His task is not an easy one. On him rests the duty of arriving at quick and impartial decisions in conducting business. In this, he will need your co-operation in full. I request you to extend to your new President the same help and co-operation which I know you have always extended to the Diwan-President, to enable him to maintain the high standard and traditions of your House.

I congratulate you, Sir, on your elevation. You are above parties. You are the custodian of the rights and privileges of this House. I have no doubt that with the knowledge of procedure and practice which you have already acquired as the Deputy President, you will discharge your great responsibilities always with courage, dignity and impartiality and in accordance with the best parliamentary traditions. As the Diwan of Cochin I offer you my congratulations and wish you success in discharging the duties of your high office.

മിസ്റ്റർ പി. ഗോവിന്ദമേനോൻ : മിസ്റ്റർ പ്രസിഡണ്ട്, സർ, ഇന്ന് ഈ സഭക്ക് ഒരു സുദിനമാണ്; ഈ രാജ്യത്തിനും ഒരു സുദിനമാണ്. വളരെക്കാലമായി ഈ സഭക്ക് ഒരു തിരഞ്ഞെടുക്കപ്പെട്ട പ്രസിഡണ്ട് വേണം എന്ന് ഇവിടെ ആവശ്യമുണ്ടായിട്ടുണ്ട്. ആ ആവശ്യമായ ആവശ്യം സാധിച്ചതു് ഇന്നാണ്. അതു സാധിക്കുന്നതിനു സഹായകമായിനിന്ന സകല ശക്തികളോടും, വ്യക്തികളോടും ഈയവസരത്തിൽ ഞാൻ നന്ദി പറഞ്ഞുകൊള്ളുന്നു. ഈ സഭയുടെ കഴിഞ്ഞ സമ്മേളനത്തിൽ ഒരു തിരഞ്ഞെടുക്കപ്പെട്ട പ്രസിഡണ്ടു വേണമെന്ന ഒരു പ്രമേയം പാസ്സായി. അതു പാസ്സായതിനു ശേഷം, ആ പ്രമേയമനുസരിച്ച് ഉടനെ നടപടികൾ നടപ്പിൽ വരുത്തണമെന്നു മഹാരാജാവു തിരുമേനിയെ

LIBRARY ARCHIVES Kerala Legislative Assembly